General Assembly **Substitute Bill No. 5637**

February Session, 2006 *____HB05637HS_APP032106___*

AN ACT CONCERNING THE AVAILABILITY OF TEMPORARY SUPPLIES OF BRAND NAME DRUGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2006*) (a) In all cases where a Medicaid or state-administered general assistance recipient presents to a pharmacist a prescription for a drug that is subject to the prior approval requirements, but for which prior approval has not been obtained, the Department of Social Services, an independent pharmacy consultant acting on behalf of the department or any entity that administers a Medicaid or state-administered general assistance managed care health plan shall, upon receiving an electronic request for payment of such drug:

(1) Ensure the immediate electronic authorization of up to a thirty-day temporary supply of the originally prescribed drug;

(2) Provide notification to the practitioner, not later than twenty-four hours after presentation of the prescription at the pharmacy, by facsimile transmission or electronic mail, that (A) prior approval is required for the prescribed drug, (B) there is a specified process for obtaining prior approval, together with forms that may be transmitted electronically to obtain such approval, (C) a temporary supply of the prescribed drug, not to exceed thirty days, was issued in the absence of prior approval, and (D) identifies any alternative drugs contained on

the applicable preferred drug lists that may be equally effective; and

(3) Mail written notification to the Medicaid or state-administered general assistance recipient, not later than twenty-four hours after presentation of the prescription at the pharmacy, that (A) prior approval is required for the prescribed drug, (B) a temporary supply of the prescribed drug was issued in the absence of prior approval, and (C) the practitioner has been advised of the option of requesting prior authorization for the originally prescribed drug or prescribing alternative drugs contained on the preferred drug lists, that may be equally effective.

(b) The Department of Social Services, an independent pharmacy consultant acting on behalf of the department, or any entity that administers a Medicaid or state-administered general assistance managed care health plan shall provide written notice of the right to a hearing to a Medicaid or state-administered general assistance recipient whenever the department, such consultant or entity: (1) Authorizes less than the full amount or duration of the drug originally prescribed, (2) denies or terminates payment for a prescribed drug, including termination of payment after providing a temporary supply of the prescribed drug, or (3) denies a request for prior approval of a prescribed drug. The hearing shall be administered by the department pursuant to chapter 54 of the general statutes.

Sec. 2. Subsection (b) of section 17b-274 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(b) A licensed medical practitioner may specify in writing or by a telephonic or electronic communication that there shall be no substitution for the specified brand name drug product in any prescription for a Medicaid, state-administered general assistance, or ConnPACE recipient, provided (1) the practitioner specifies the basis on which the brand name drug product and dosage form is medically necessary in comparison to a chemically equivalent generic drug

product substitution, and (2) the phrase "brand medically necessary" shall be in the practitioner's handwriting on the prescription form or, if the prohibition was communicated by telephonic communication, in the pharmacist's handwriting on such form, and shall not be preprinted or stamped or initialed on such form. If the practitioner specifies by telephonic communication that there shall be no substitution for the specified brand name drug product in any prescription for a Medicaid, state-administered general assistance, or ConnPACE recipient, written certification in the practitioner's handwriting bearing the phrase "brand medically necessary" shall be sent to the dispensing pharmacy within ten days. **[**A**]** Except as provided in section 1 of this act, a pharmacist shall dispense a generically equivalent drug product for any drug listed in accordance with the Code of Federal Regulations Title 42 Part 447.332 for a drug prescribed for a Medicaid, state-administered general assistance, or ConnPACE recipient unless the phrase "brand medically necessary" is ordered in accordance with this subsection and such pharmacist has received approval to dispense the brand name drug product in accordance with subsection (c) of this section.

Sec. 3. Subsection (f) of section 17b-274d of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(f) **[**Nonpreferred**]** Except as provided in section 1 of this act, nonpreferred drugs in the classes of drugs included on the preferred drug lists shall be subject to prior authorization. If prior authorization is granted for a drug not included on a preferred drug list, the authorization shall be valid for one year from the date the prescription is first filled. Mental-health-related and antiretroviral classes of drugs shall not be included on the preferred drug lists.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2006*	New section

Sec. 2	*July 1, 2006*	17b-274(b)
Sec. 3	*July 1, 2006*	17b-274d(f)

HS *Joint Favorable Subst. C/R* APP